

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** May I know, Sir, whether the Government is aware of the Central Government's proposals which are based upon the report which is mentioned in this question, I mean upon the report of the Seargent Committee.

**Rao Sahib I. N. Menon (Director of Public Instruction):** The Central Education Board is submitting to the Reconstruction Committee of the Viceroy's Executive Council a scheme based essentially on the Seargent Committee's report. This scheme is spread over a period of 40 years and when it is fully implemented, it is going to cost the Government of India round-about 277 crores of rupees. It embraces practically all the spheres of education of the States as well as the Provinces starting with the Montessoric School and going up to adult education and Industrial education. We have not been able to get a copy of it yet.

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** May I know, Sir, what are the reactions of the Central Board scheme upon our Government.

**Rao Sahib I. N. Menon (Director of Public Instruction):** I said copies have not been received.

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** I am afraid, Sir, I have not been understood. Mainly based on the Seargent Committee's report the Central Government have formulated a scheme reference to which was made by the Hon'ble Member for Education.

**Rao Sahib I. N. Menon (Director of Public Instruction):** It is not exactly the Central Government. It is the Central Board of Education that has submitted its proposals to the Central Government.

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** Are our Government, Sir, considering to react to the scheme of the Seargent Committee report?

**Mr. President:** Order, order. I think the Hon'ble Member is rather trying to achieve the impossible. Until this Government are in possession of the scheme to which he is referring, Government cannot possibly be expected to apply their minds to it.

#### ANNOUNCEMENT OF THE EXTENSION OF THE SITTING OF THE COUNCIL

**Mr. President:** I have to announce that His Highness the Maharaja has been pleased to extend the sitting of this Council to Monday, the 14th of February in order to consider the following motion of which short notice has been given by the Hon'ble Minister.—“This House do hereby record its confidence in the Hon'ble Minister for Rural Development Mr. T. K. Nayar”.

#### LEGISLATIVE BUSINESS—NON-OFFICIAL BILLS

##### The Cochin Code of Criminal Procedure (Amendment) Bill

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** Mr. President, I beg to move for leave to introduce the Cochin Code of Criminal Procedure (Amendment) Bill. No statement from me is necessary at this stage. That has been the precedent and the convention of this House.

**Mr. T. S. Ramachandra Ayyar (Chittur-Tattamangalam):** I second it.

*Motion put and carried*

##### The Cochin Prevention of Food Adulteration Act (Amendment) Bill

**Mr. C. V. Iyyu (Kunnamkulam):** Sir, I beg leave of the House to introduce the Cochin Prevention of Food Adulteration Act Amendment Bill.

**Mr. A. T. Kunhipalu (Kattur):** I second it.

*Motion put and carried*

##### The Cochin Verumpattamdars Act (Amendment) Bill

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** Sir, I beg to move for leave of this House to introduce the Cochin Verumpattamdars Act (Amendment) Bill.

**Mr. K. S. Panicker (Ezhuvas-Mukundapuram):** I second it.

**Mr. A. Eachara Menon (Chittur-Rural):** I oppose it.

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** Sir, now that against the convention of this house for 19 years the Bill is opposed by a veteran, I have to explain. The Cochin Verumpattamdars Act became the law of the State only on the 19th of Kumbham 1118. That is considered by the masses in Cochin as a boon from the late lamented Highness. It is a boon, sir, in the sense that the Verumpattam tenants who used to be oppressed by arbitrary eviction and rackrenting have been saved by the Act which gave those tenants fixity of tenure and the existing rent, whether it be advantageous to the tenant or to the landlord, being made the rent

payable for all time. Or in other words, the existing rent is not allowed by the existing Act either to be increased or to be decreased. It is in that sense, Sir, that it is considered to be a boon. Boon surely it is, but it has got unfortunately in it certain defects of a very formidable nature which converts, I am sorry to submit, Sir, the boon into something which is not a boon. And the object of this amending Bill is to see that the Act becomes a real boon and it is proposed to make it a real boon by removing from it certain unhappy portions thereof and adding a few more provisions. The most important amendment that I seek through this amending Bill is that as far as the sections regarding evictions permitted under the Act may only be evictions conditional. As the Act stands, the eviction is arbitrary on the happening of a particular event.

**Mr. A. Eachara Menon (Chittur-Rural):** The happening of a condition.

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** Interruption being ignored I proceed. The condition which my Hon'ble friend from Chittur gave expression to is that the eviction can be sought in a court of law only, if the verumpattam tenant fails, for whatever reasons it be, to pay the pattam at the fixed dates, the fixed date being three months from the date fixed in the contract, i.e., in other words, if pattam is made payable a portion on the 30th of Kanni and the remaining portion on the 30th of Makaram, three months from the 30th of Kanni, i.e., Thulam, Vrischigam, Dhanu, i.e., on the 1st of Makaram, the landlord under the existing Act is given the right to sue the tenant in eviction and a most grotesque provision exists in the Act which amounts to a contempt of our judiciary. I shall explain, Sir.

The provision in the existing Act is that on the happening of a condition which was passed on to me by my Hon'ble friend from that corner that condition happening and the landlord going into the Court the court has simply to grant the prayer. The Court, a judicial tribunal, the very words showing that it has to apply its mind to the surrounding circumstances is ordered by the Act to decree eviction. Therefore, Sir, a court, a judicial tribunal applying its mind to the various circumstances under which the pattam fell into arrears is not given under the existing Act the power to condone the forfeiture even by a single day. It is because of that stinging nature of that hard provision that I submitted to this Hon'ble House that it even amounts to a contempt of our courts. It amounts to a contempt yet for another reason. We have got another Tenancy Act on our Statute Book which was originally a boon granted in the teeth of opposition by the late abdicated Maharaja, the first Tenancy Act of Cochin, with this difference that Act refers to the kanam tenure in contra-distinction to the verumpattam tenure. In that Act, i.e., the Tenancy Act, XV/1113, the existing Tenancy Act, in similar circumstances where the michavaram falls into arrears it gives the landlord, the jenmi, the right to sue the tenant, the kanamdar, for eviction. But there, there is a condition. The condition is this: that on the first hearing of a suit naturally taking some time after the filing of the suit, if on that date the kanamdar, the tenant, pays into the court the amount of arrears sued for with costs of the suit, the forfeiture is condoned under the existing Tenancy Act. So, Sir, as far as the kanam tenure is concerned our law is that it grants the landlord the right to sue on the condition pointed out by my Hon'ble Friend from Chittur. But the Act gives the power to the court and rightly too, to grant, i.e., the court is not ordered by that Act, to grant a decree for eviction but the court is given power to condone the forfeiture on the happening of the event, the condition, namely, that although the jenmi has sued for his arrears, such arrears plus the costs of litigation, if deposited in court, the tenant is returned to the status quo. That is, he can enjoy the property till such time that he commits a breach of the contract, when again, when he is brought to the court, if he is again able to pay the arrears and the costs, he again enjoys the right. That certainly is a very reasonable and necessary provision. In contra-distinction to that provision of the Tenancy Act pertaining to kanam tenures we have unfortunately in this Verumpattamdars Act a provision to the effect that the court shall not exercise its discretion. The Court is ordered under the Act to grant what is prayed for, namely eviction, simply on the happening of that event, i.e., failure to pay the pattam within three months of the due dates. I would submit, Sir, to this Hon'ble House and to those Hon'ble Members who know anything to do with agriculture directly or indirectly or who have taken pains to study, and I am sure every Hon'ble Member must have had that experience, what exactly the condition of the verumpattam tenant of Cochin is and it behoves every Hon'ble Member to have the amendment passed. Those that had studied the caprices of the monsoon obtaining in the State can easily understand that it is almost an impossibility to pay any fixed pattam on the fixed date. What was our experience, Sir, during the last year with regard to our food control measures. From the crops of puncha lakhs and lakhs of paras of paddy had been expected. Nature frowned, crops were drowned and

the result was our ration had to be reduced—I am not complaining against the reduction. When nature frowns things had to be changed. What was our next experience with regard to the Kanni crop, namely, the August crop. It is called Viruppu, *i. e.*, the first crop in our double crop and single crop lands. What was our experience. The Hon'ble Member for Food Supplies would be able to tell us what the experience of the harvest was. No agriculturist in the land anywhere where paddy is grown had been able to realise anything more than 40 to 50 per cent of the usual yield. That statement will not be contradicted. What was the thing as far as the kole lands were concerned. It was the setting in of the monsoon much earlier than usual. As far as the Viruppu crop was concerned there was incessant rain for a period nearly of three months. What, again, was our experience with regard to Hill Paddy. Much hope was banked upon the returns of the hill paddy. The budget will show, Sir, that as against an expenditure of seven and a half lakhs of rupees a profit of 13 and odd lakhs was expected by looking at the crops, the nature of its growth and all that. What was our experience and what is the result that has followed. The Hon'ble Minister, the biggest farmer in the State in the language of the Ex-Diwan, Mr. Dixon when he was pleased to transfer the Hill Paddy Scheme to the portfolio of the Minister, it was stated in the House "Here is a Minister who is the biggest farmer in Cochin". Because something like 24,000 acres of virgin land was transferred to him. That Hon'ble Minister will speak about his experience. His own experience was that the return expected, so hopefully expected did not reach anywhere near it and therefore he had, with a pang at heart, I am sure, to drop partially at least the Hill Paddy Scheme altogether. But it is not completely given up. Another method of approach has been taken up by him. From these three instances, the failure to get the kole crops, the failure to get the full yield of the expected viruppu crop, the seeming failure of the Hill Paddy Scheme, all these clearly indicate that "man proposes and God disposes" is the order of the universe. It is not possible for a tenant to pay the pattam whatever it be, small or big, in time. What is the virtue of this three months' period given to him for payment. The tenant is not going to get another crop within three months. That is the difficulty. Anybody who knows anything about paddy cultivation will know that the minimum period required for getting an harvest will be between three and four months. Therefore, a tenant who makes default on the 30th of Kanni cannot from his second harvest pay the arrears of the first crop. Therefore, the period of three months allowed to him for finding out the pattam and paying it up does not really help him. Therefore, he requires other help and it is that help that is sought through this amendment. What I seek through the amendment of those sections is that instead of ordering our judiciary to grant to the landlord the eviction prayed for as a result of pattam not being paid within three months of the due dates, that in such a contingency, the tenant may be given a particular kind of relief in this way, namely, that if he deposits in court either on the first day or within such time, whatever be its duration, short or long, that the court deems fit to grant, considering the circumstances of the case, within such time if the amount of arrears is deposited the forfeiture is condoned. So in a nut-shell the main relief sought through the amendment is that where forfeiture was a foregone conclusion, forfeiture may be conditioned. Forfeiture may be granted, if only the tenant fails again to pay into the court or into the hands of the landlord the arrears as well as what he has spent for getting the arrears. In that case forfeiture may be condoned is the main amendment so sought. What a reasonable request! What is requested through this amendment is that there should be a provision in the statute to condone forfeiture. As far as the kanam tenants are concerned there is the Tenancy Act with a similar provision. In section 111 of the Transfer of Property Act there is a similar provision generally regarding leases. In cases where a lease incurs forfeiture it has to be condoned and the court has no option but to condone in the event of the lessee paying into court the arrears sued for on the first hearing. That is, there are two enactments in our Statute Book, namely, the Transfer of Property Act which is the general law, and the Tenancy Act, pertaining to kanams, which is a special law. In these two enactments, there exists the provision that is sought for through this amendment Act. The prayer in this Amendment Bill is that that provision be introduced here also. Greater is the reason for having this condition with regard to verumpattam tenants. I do not wish further to explain why the reason is greater. It is patent. Therefore, it is that I thought it, on behalf of the tenantry of the State amongst whom I live, my duty—not that I thought it my duty to introduce the Bill—I will characterise in another way—it will be a dereliction of my duty so long as I happen to be a member of this House, not to move my little finger to bring this much needed relief. It is in that sense and with that feeling that I have tabled this amendment. I do not, refer, Sir, to the other pieces of the amendment that I want. They are minor ones. They are easily grantable. To them, I am sure my Hon'ble friend from Chittur will not object.

The first amendment that I seek is in section 5 of the existing Act. Section 5 of the existing Act has got a history of its own. Clause (2) of Section 5 was not in the Select Committee Report and that was considered by this House, I believe in the month of Makaram perhaps on the same day of Makaram last year. It was a novel amendment introduced by the Government and at that time foolishly supported by me. I found out the mistake and I am here through this amendment rectifying the mistake committed by me and I am apologising to my hon'ble friends who frowned against me that day for my foolish act. So, the amendments are sought to be made on behalf of the tenant by seeking for the amendment of Clause 2 of Section 5. I have sought through this amendment Bill an amendment to Sub-Section (1) of Section 5 also. That was before this House in the last meeting rather the first meeting of the legislative session through an amending Bill from my hon'ble friend on the left. He had an amendment in his name referring only to that Clause (1) of Section 5, and the reason for that as stated in the statement of objects and reasons of the Bill, is that the existing pattam being made a fixed matter, that is it is neither to be increased nor to be decreased under the Act—nobody complain about that—here is an exceptional case where from the nature of the situation, whether it be garden or cultivable land, as a result of erosion, as a result of avalanche or things like that, if a portion of the holding has become unfit and not useful for cultivation, equity demand that proportionate revision in pattam should be given. Is it anything too much that I have asked through this amendment?

**Mr. A. Eacharn Menon (Chittur-rural):** Certainly not.

**Mr. P. Kumaran Ezhuthassan (Vadakkancheri):** I am glad that support is forthcoming bit by bit. Therefore, let me now take my Hon'ble friend from Chittur to Clause 2 of Section 5. Clause 2 of section 5 is the subject-matter of a resolution that comes in the name of my hon'ble and weighty friend sitting there with his Resolution No. 9: "വെറമ്പാട്ടക്കുടിയൻ സ്ഥിരാവകാശ ബില്ലിൽ അതാതു കാലത്തു ഉള്ള വിലയനുസരിച്ചു പാട്ടം വസൂൽ ചെയ്യുന്ന സമ്പ്രദായത്തിൽ നിന്നു പ്രത്യേകാൽ തെങ്ങിൻ തോട്ടകാരുടെ കായ്ക്കത്തിൽ ഇന്നുള്ള നിശ്ചിതപാട്ടം എന്നും തന്നുകൊള്ളാമെന്നു സമ്മതിക്കുന്ന കുടിയറവനെ ടി ബില്ലിന്റെ പരിധിയിൽനിന്നു ഒഴിവാക്കുന്ന ഒരു വിളംബരം ഉടനെ പ്രസിദ്ധപ്പെടുത്തണമെന്നു ഈ സഭയവർണ്ണിക്കുന്നോടു തുപാൾ ചെയ്യുന്നു". I ask in all seriousness whether there will be any Hon'ble Member in this House who will have the hardihood to oppose that resolution. I am so sure that every Hon'ble Member in this House will be supporting that resolution. But the resolution by itself will not be a permanent matter. Let it be on the Statute. That is the object of the amendment to Sub-clause 2 of Section 5. I am sure that my Hon'ble friend from Chittur also will, at the time of voting be pleased to vote for the amendment.

Now, Sir, I have done with two portions of the amendment and the third portion is of a very minor nature. At the same time something which creates friction and heart-burning with the consequent trouble for the tenants, viz. that when either from the produce of the land obtained or by other methods the jenmy's dues are paid, the existing Tenancy Act pertaining to kanam lays down that such and such things be done by the landlord, such and such things be given to the tenant. That is, a receipt must be passed is enjoined by the existing Tenancy Act. But in the case of kanam tenants, a direction is given by certain sections of the Act that the particulars to be got in that receipt are such and such. what are the consequences of not embodying particular particulars etc. Then the option is given to the tenant that if for any reason, right or wrong, the landlord refuses to accept the pattam and the kanam tenant is given the option to send the dues commuted into money at rates to be published by Government under the rule-making powers granted by the Act.....

The other provisions of my amending Bill are only reproductions of the existing provisions of the Tenancy Act with appropriate changes necessitated by the nature of the tenure, viz., Verumpattam. In the existing Kanam Tenancy Act it is a case of refusal by the landlord to accept the pattam that gives the tenant the right to send the commutation value by Money Order. I have by way of abundant caution gained by experience as a practising lawyer introduced by way of protection a few words and that is "if the tenant has reasons to believe that the Jenmi will not grant a receipt as contemplated in the foregoing section, in that case also he has the option to send the commutation value by Money Order. Hon'ble members who have had something to do with suits between landlords and tenants, most of them, I am sure, will have experience by this time the nature of contentions on this particular issue and it will be very difficult to prove that the paddy was taken to the landlord's granary. As a matter of fact, the

landlord refused to take measurement of the paddy and pass on a receipt and further the tenant had to take it back and after taking it home he converted it into money and finally he sends the money. These are all ordinary and daily difficulties. From experience it is that I have brought this part of the amendment. I do not think it is all wholesome business, but nothing in this world is perfect. Therefore this portion of the amendment may have something to be said against it. I do not submit that this is all right but there is a stage where we can chistle the whole thing, remove the deformities, and make it as presentable as possible and further as acceptable as possible to this Hon'ble House. There is another stage for this but at this stage I am simply surprised, as far as such a Bill is concerned, much against the convention of the House extending over to a period of 19 years, the opposition emanates from a friend who is as old in Council experience as this Council itself. That creates heart-burning in me, but I am sure that this appeal made by an old man like myself, though not as old as my hon'ble friend, he will be pleased to react and he will withdraw his opposition is my wish and that is the prayer that I place before this House, with the hope that he will beautifully react and further discussion will be avoided against the convention of this House.

**Mr. A. Eachara Menon (Chittur-Rural):** Sir, I am opposing this Amending Bill at this stage simply because these points were once urged by the same member when the mother Bill of which this is an amendment and which has now become Act, was under discussion. There is no use of spending the time of this Council by going over the same matter and by reproducing his speech. I admit that it was a boon from His Highness the Maharaja, but His Highness the Maharaja was not so much obsessed as the author of the amending Bill by his experience in pleading the case of one side alone. His Highness' subjects were alike to His Highness. So His Highness purposely wanted that section to be there, that if the case is taken to a court of law, the Judges should at once give a decree so that His Highness' subjects here, deprived of their right over their property by what they call a revolutionary Bill, may in some manner be helped to get the rent due to them at once. If the House is of opinion that what the author of this amendment say is right, I fear some of the land-holders will have to fast for at least six months. Generally they are to get their rent in the month of Kanni. If that rent is not given, then they can go to court according to law only after 3 months. After three months alone they can go to a court of law. If after going to a court they are to wait till the Vakils of both the sides are ready for the case,—that means more than a year—they will take to realise the rent only after a long period. The vakils on both the sides will try to go on with the case from month to month—day before yesterday a vakil was saying that if the judges hurry on with a case, they will be the losers and they cannot afford it. So, their object will be to drag on the case and the effect will be that the landlord will have to fast.

Then to compare this with the Tenancy Regulation. There, a jenmami is a big landlord. He has many lands and he has given to many on verumpattams. He can afford to wait. Here, there may be rich jenmies as well as poor jenmies. The poor people who have purchased the land might have given their all for it and they are asked to be contented with getting their rent. If they don't get their rent, they have nothing to fall back upon. He will have to go abegging according to the Act.

With regard to erosion, the landlord cannot go near the estate. It is in the hands of the tenant. After all, in an erosion the Amending Bill insists on giving a remission to the tenant and it does not speak about how the erosion should be put right. Further, the tenant will have nothing to spend and the jenmi cannot enter the estate. So, it will have to be there. Then there will be another erosion which will be greater since the first one helps it. Within two or three years, I do not know where the jenmi and the tenant will be if these erosion repeat.

**Mr. B. M. Peter (Latin Christians-Mattancheri):** You mean sea erosion?

**Mr. A. Eachara Menon (Chittur-Rural):** Yes. Then, this Act was passed only on 19th Kumbham 1118. The Act has been working only for six or seven months. We shall wait and see how the Act works. Before that, it being of a revolutionary nature, we must go very slowly and surely. There is no use of taking a kind of blitzkrieg method. Already the landlords were deprived of their lands. Now the Amending Bill purports to put them into a very miserable condition by a slow process of reducing to nothing. So I oppose the amending Bill.

*Motion put and carried*

#### **The Cochin Customary Verumpattamdars Bill**

**Mr. C. V. Iyyu (Kunnamkulam):** Sir, I beg to move for leave of the House to introduce the Cochin Customary Verumpattamdars Bill.

**Mr. Thomas Karikasseri (Latin Christians-Cranganur):** I second it.

*Motion put and carried*